

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MONTGOMERY CARL AKERS,

Plaintiff,

vs.

JAMES KESZEI, *et al.*,

Defendants.

Case No. 2:07-cv-00572-JCM-GWF

**FINDINGS AND
RECOMMENDATIONS**

On June 19, 2007, the undersigned Magistrate Judge issued Order (#3), which granted Plaintiff's application to proceed *in forma pauperis*. However, the Court ordered Plaintiff to pay the an initial installment fee of **\$21.48** toward the full filing fee of three hundred fifty dollars (\$350.00) within **thirty (30) days** from the date Order (#3) was entered. Plaintiff was advised that failure to make the payment could result in dismissal of the action. To date, Plaintiff has not complied with Court Order (#3) within the allotted time period, and the time allowed has expired. Accordingly,

RECOMMENDATION


Based on the foregoing, it is the **recommendation** of the undersigned United States Magistrate Judge that the Complaint should be **dismissed** without prejudice based on Plaintiff's failure to pay the filing fee of three hundred fifty dollars (\$350.00).

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the

1 courts of appeal may determine that an appeal has been waived due to the failure to file objections
2 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)
3 failure to file objections within the specified time and (2) failure to properly address and brief the
4 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
5 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
6 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

7 DATED this 17th day of September, 2007.

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10 **GEORGE FOLEY, JR.**
11 **UNITED STATES MAGISTRATE JUDGE**
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